

## **REMARKS**

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed August 15, 2007. Claims 1-3, 5-8, 11, and 13-16 were rejected. The claims have been amended to address the concerns raised by the Examiner.

### **Claim Rejections - 35 U.S.C. § 102**

Claims 1-3, 5-8 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lemmens (6,174,027)

The Cited invention of Lemmens (US-6,174,027) solves a different problem than the present invention. The invention of Lemmens is specifically related to seat post designs that are adjustable while riding. The necessity of an easily reachable adjustment knob dictates some of the shape and function of the invention.

The applicant's invention is specifically related to easily adjustable seat posts, but not specifically to seat posts that can be adjusted while riding. These different goals have different design requirements and this is shown in both the specification and the claims of this inventors' application.

Since the invention of Lemmens is primarily concerned with adjustment while riding, a completely different set design parameters, limitations, and goals were used than were used to create the applicants invention.

Furthermore, when weight and performance are considered without the need for adjustment while riding, all of the embodiments of the applicants' invention are much improved when compared to the embodiments of the invention of Lemmens.

### **C. Commercial Success/Commercial Acquiescence**

The applicants' invention is currently being licensed by contracts with two licensees, and their licensed seat posts can already be found on a significant percentage of bicycles sold in the market. These licensed products are being sold on bikes made by some of the largest bicycle companies in the world as well as in retail stores.

Licensees:

Race Face: [www.raceface.com](http://www.raceface.com)

MAXM Components: [www.maxmcomponents.com](http://www.maxmcomponents.com)

Partial list of bicycle manufacturers producing models with licensed product:

Giant Bicycles: <http://www.giant-bicycles.com>

Kona Bicycles: <http://www.konaworld.com>

Rocky Mountain Bikes: <http://www.bikes.com/>

Ironhorse Bikes: <http://www.ironhorsebikes.com/>

Yeti Cycles: <http://www.yeticycles.com/>

Titus Cycles: <http://www.titusti.com>

The cited patent of Lemmens lacks any suggestion that a more structurally supportive link scheme could or should be used, or that it would have any advantages.

Applicant wishes to point out paragraph 7 of the Background section of the Applicants' specification.

U.S. Patent 6,174,027 to Lemmens uses a seat support pivotably attached to one end of a seat post with a threaded rod and knob as an angular control adjustment between the seat support and the seat post. This example of prior art is not ideal for lightweight applications. The threaded rod adjustment only serves to define the seat angle by separating the seat support and seat post. The threaded rod provides no support in any other direction due to the necessity of the rod to rotate for adjustment. The threaded rod is continuously free to rotate about at least one end. Additionally, the threaded joints that the rod threads into do not provide significant support to resist side and bending loads since they must be kept loose enough to allow free movement of the threads. Furthermore, to make the threaded rod and knob adjustment easily available while the bicycle is being ridden it is located a considerable distance from the seat rails, making the seat support structure carry significant bending loads. This lack of structural support from the angular control adjustment and remote adjustment location with respect to the seat rails creates stress and load conditions that lead to a heavy and bulky assembly.

Applicant further wishes to point out paragraph 8 of the Summary of the Invention section of the specification.

In general, the invention is composed of a triangular three-link structure. The seat post is contained within the first link. The seat is contained within the second link. A third link acts as a support structure between the first and second and completes the triangular structure. Each link or link assembly provides structural support in more than one direction.

### **Applicant Claims Novel Structure over Lemmens**

The invention of Lemmens does not have a three link structure. The structure of the applicants' invention claims three structural links connected together with three pivotable axes in a triangular configuration. These links provide solid support in more than one direction and produce better results.

The invention of Lemmens has only two structural elements with an adjustment that only supports the angle between them. This adjustment is not a structural link, it only provides support along the axis of the adjustment screw to hold the two structural elements at a set distance apart in that location.

This is an important distinction. In the applicant's invention, this third structural link allows for the assembly to be light-weight. It transfers loads better and requires much less material around the three pivot axes. In other words, the pivot (2) shown in Figure 1a of the patent of Lemmens must be much stronger and heavier since the assembly has no third structural link.

The cited invention of Lemmens is not rigid. The applicant claims a rigid assembly. It locks into place. Due to the requirement of adjustment while riding, the invention of Lemmens is never rigid, it can always be altered with the turn of a knob.

The invention of Lemmens does not lock into place. There is no attempt to lock it into place and Lemmens fails to express any need for it. In fact, it was an objective of Lemmens to remain adjustable at all times.

By creating a rigid assembly, the applicant minimizes many issues one skilled in the art must take into account when designing a seat post clamp such as creaking, slipping, unintentional

adjustment, adjustment drift etc. While always important, these issues are even more important in high-end, light-weight applications.

### **Claim Rejections - 35 U.S.C. § 103**

Claims 13-16 were rejected under 35 U.S.C. § 103 as being unpatentable over Lemmens.

The applicant argues that with an understanding of the arguments listed above, it is clear that the invention is patentable over Lemmens (6,174,027). Lemmens suggest all the claimed elements.

The prior art lacks structural support in its adjustment member that the application of this applicant clearly claims and teaches the advantages of.

It is the applicant's opinion that the three independent claims 1,5, and 13 are generic and cover all of the embodiments described in the application. Many of the dependent claims are believed to be generic as well. The applicant believes that the claims currently withdrawn should be allowed if any of the independent claims are found to be generic.

Applicant submits that this application is now in full condition for allowance, which action applicant respectfully solicits.

## **CONCLUSION**

In light of the above, Applicant respectfully submits that pending claims 1-3, 5-8, 11, 13-16, and 21 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Steve M. Perry at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Fees in the amount of \$230.00 will be submitted electronically pursuant to 37 C.F.R. § 1.17(a)(2), for a 2 month extension of time pursuant to 37 C.F.R. § 1.136. Fees in the amount of \$405.00 will be submitted electronically pursuant to 37 C.F.R. § 1.17(e) for a Request for Continued Examination.

One new claim was added and no additional fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 15th day of January, 2008.

Respectfully submitted,

/Steve M. Perry/

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